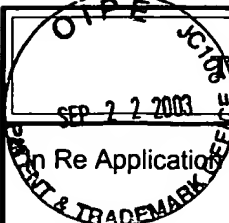


AF/2672

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 TRANSMITTAL OF APPEAL BRIEF (Large Entity)	Docket No. RO998-106
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In Re Application Of: **Beach et al.**

Serial No. 09/181,402	Filing Date 10/28/1998	Examiner Chung, Daniel J.	Group Art Unit 2672
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Invention: **METHOD AND APPARATUS FOR PRIORITY TRANSMISSION AND DISPLAY OF KEY AREAS OF IMAGE DATA**

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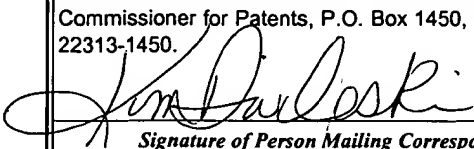
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Dated: **9/16/2003**

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THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Beach *et al.*

Art Unit: 2672

Serial No.: 09/181,402

Dkt. No.: RO998-106

Filed: 10/28/1998

Examiner: Chung, Daniel J.

Title: **METHOD AND APPARATUS FOR PRIORITY TRANSMISSION AND DISPLAY
OF KEY AREAS OF IMAGE DATA**

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Commissioner for Patents
P.O. Box 1450
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BRIEF OF APPELLANTS

This Appeal Brief, pursuant to the Notice of Appeal filed July 16, 2003, is an appeal from the rejection of the Examiner dated May 16, 2003.

REAL PARTY IN INTEREST

International Business Machines, Inc. is the real party in interest.

RELATED APPEALS AND INTERFERENCES

None.

STATUS OF CLAIMS

Claims 1-49 are currently pending.

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STATUS OF AMENDMENTS

09/181,402

There are no After-Final Amendments which have not been entered.

SUMMARY OF INVENTION

The present invention discloses an apparatus, an associated program product, and an associated method. The apparatus comprises a transmitting computer comprising at least one processor and a memory coupled to the at least one processor. See FIG. 1 and specification, page 10, lines 21-26. A prioritized graphics file resides in the memory, the prioritized graphics file defining higher priority image transmission portions and lower priority image transmission portions that have been selected and assigned priorities such that when the prioritized graphics file is transferred across a network, the higher priority image transmission portions of the prioritized graphics file are transmitted before the lower priority image transmission portions of the prioritized graphics file. See specification, page 24, lines 1-6; page 14, lines 16-25.

A receiving computer receives image transmission portions of the prioritized graphics file. The receiving computer may comprise an image interpreter and an image viewer residing on the receiving computer, the image interpreter translating the received image transmission portions of the prioritized graphics file into image data, such that the image viewer can display the higher priority image transmission portions of the prioritized graphics file before displaying the lower priority image transmission portions of the prioritized graphics file. See specification, page 17, lines 17-28.

An image prioritization editor may reside in the memory, the image prioritization editor allowing at least one image transmission portion of the prioritized graphics file to be selected and assigned at least one priority. See specification, page 14, lines 16-23.

The image interpreter may save the prioritized graphics file in the prioritized graphics file. The prioritized graphics file format may comprise joint picture experts group format, graphics interchange format, or bitmap format. The prioritized graphics file format may comprises a plurality of image transmission portions of the prioritized graphics file, each image transmission portion corresponding to the at least one priority. See specification, page 15, lines 4-21.

A simulation browser may simulate transmission and reception of the prioritized graphics file, the simulation browser adding a delay between image transmission portions of the prioritized graphics file. See specification, page 15, line 27 - page 16, line 6.

Signal bearing media bearing the image interpreter may comprise transmission media and may comprise recordable media. See specification, page 14, line 22 - page 13, line 2.

ISSUES

1. Whether claims 1-49 under 35 U.S.C. §103(a) are unpatentable over Cordell et al. (5,778,372) in view of Scorse et al. (5,426,513).

GROUPING OF CLAIMS

The claims are grouped as shown in Table 1:

Table 1

Group	Claims	Do Claims of Group Stand or Fall Together?
1	1, 14-16	Yes
2	2, 8, 17, 23-25	Yes
3	9, 18, 26	Yes
4	10, 19, 27	Yes
5	11, 20, 28	Yes
6	12, 21, 29	Yes
7	13, 22, 30	Yes
8	8, 31-34, 47-49	No
9	35-40	No

The claims of Group 2 do not stand and fall together with the claims of Group 1, because the claims of Group 2 include the following issues not present in any of the claims of Group 1: “the receiving computer comprising an image interpreter and an image viewer residing on the receiving computer, the image interpreter translating the received image transmission portions of the prioritized graphics file into image data, such that the image viewer can display the higher priority image transmission portions of the prioritized graphics file before displaying the lower priority image transmission portions of the prioritized graphics file”

The claims of Group 3 do not stand and fall together with the claims of Groups 1-2, because the claims of Group 3 include the following issues not present in any of the claims of

Group 1-2: “further comprising an image prioritization editor residing in the memory, the image prioritization editor allowing at least one image transmission portion of the prioritized graphics file to be selected and assigned at least one priority”.

The claims of Group 4 do not stand and fall together with the claims of Groups 1-3, because the claims of Group 4 include the following issues not present in any of the claims of Group 1-3: “further comprising an image interpreter, the image interpreter saving the prioritized graphics file in a prioritized graphics file format”.

The claims of Group 5 do not stand and fall together with the claims of Groups 1-4, because the claims of Group 5 include the following issues not present in any of the claims of Group 1-4: “wherein the prioritized graphics file format comprises joint picture experts group format, graphics interchange format, or bitmap format”.

The claims of Group 6 do not stand and fall together with the claims of Groups 1-5, because the claims of Group 6 include the following issues not present in any of the claims of Group 1-5: “wherein the prioritized graphics file format comprises a plurality of image transmission portions of the prioritized graphics file, each image transmission portion corresponding to the at least one priority”.

The claims of Group 7 do not stand and fall together with the claims of Groups 1-6, because the claims of Group 7 include the following issues not present in any of the claims of Group 1-6: “wherein the apparatus further comprises a simulation browser residing in the memory, the simulation browser simulating transmission and reception of the prioritized graphics file, the simulation browser adding a delay between image transmission portions of the prioritized graphics file”.

The claims of Group 7 do not stand and fall together with the claims of Groups 1-6, because the claims of Group 7 include the following issues not present in any of the claims of Group 1-6: whether a method for transmitting a graphics file from a transmitting computer is unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse, inasmuch as none of the claims of groups 1-6 claim a method.

The claims of Group 8 do not stand and fall together with the claims of Groups 1-6, because the claims of Group 8 include the following issues not present in any of the claims of Group 1-6: whether a method for transmitting a graphics file from a transmitting computer and receiving the graphics file on a receiving computer is unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse, inasmuch as none of the claims of groups 1-6 claim a method.

The claims of Group 9 do not stand and fall together with the claims of Group 8, because the claims of Group 9 include the following issues not present in any of the claims of Group 8: “performing the following steps on the receiving computer: receiving a image transmission portion of the prioritized graphics file; translating the image transmission portion of the prioritized graphics file into image data; determining the location of the image transmission portion of the prioritized graphics file; and transferring the image data and the location to an image viewer such that the image viewer can display the image transmission portion of the prioritized graphics file at the location.”

The claims of Group 8 do not stand and fall together for the following reasons.

Claim 32 does not stand and fall together with claim 31, because claim 32 includes the following issues not present in claim 31: “saving the prioritized graphics file in a prioritized

graphics file format”.

Claim 33 does not stand and fall together with claims 31-32, because claim 33 includes the following issues not present in claims 31-32: “wherein the prioritized graphics file format comprises joint picture experts group format, graphics interchange format, or bitmap format”.

Claim 34 does not stand and fall together with claims 31-33, because claim 34 includes the following issues not present in claims 31-33: “wherein the prioritized graphics file format comprises a plurality of image transmission portions of the prioritized graphics file, each image transmission portion corresponding to the at least one priority”.

Claim 47 does not stand and fall together with claims 31-34, because claim 47 includes the following issues not present in claims 31-34: “wherein the prioritized graphics file comprises a joint picture experts group file”.

Claim 48 does not stand and fall together with claims 31-34 and 47, because claim 48 includes the following issues not present in claims 31-34 and 47: “wherein the prioritized graphics file comprises a graphics interchange format file”.

Claim 49 does not stand and fall together with claims 31-34 and 47-48, because claim 49 includes the following issues not present in claims 31-34: and 47-48: “wherein the prioritized graphics file comprises a bitmap file”.

The claims of Group 9 do not stand and fall together for the following reasons.

Claim 36 does not stand and fall together with claim 35, because claim 36 includes the following issues not present in claim 35: “simulating transmission and reception of a image transmission portion of the prioritized graphics file; translating the image transmission portion of

the prioritized graphics file into image data; determining the location of the image transmission portion of the prioritized graphics file; transferring the image data and the location to an image viewer such that the image viewer can display the image transmission portion of the prioritized graphics file at the location; waiting a delay; and repeating steps A through E until the entire prioritized graphics file has been transmitted and received”.

Claim 37 does not stand and fall together with claims 35-36, because claim 37 includes the following issues not present in claims 35-36: “wherein the step of translating the image transmission portion of the prioritized graphics file into image data further comprises the step of decompressing the image transmission portion of the prioritized graphics file”.

Claim 38 does not stand and fall together with claims 35-37, because claim 38 includes the following issues not present in claims 35-37: “saving the prioritized graphics file in a prioritized graphics file format”.

Claim 39 does not stand and fall together with claims 35-38, because claim 39 includes the following issues not present in claims 35-38: “wherein the prioritized graphics file format comprises joint picture experts group format, graphics interchange format, or bitmap format”.

Claim 40 does not stand and fall together with claims 35-39, because claim 40 includes the following issues not present in claims 35-39: “wherein the prioritized graphics file format comprises a plurality of image transmission portions of the prioritized graphics file, each image transmission portion corresponding to the at least one priority”.

ARGUMENT

Issue 1

CLAIMS 1-49 ARE NOT UNPATENTABLE UNDER 35 U.S.C. §103(a) OVER CORDELL ET AL. (5,778,372) IN VIEW OF SCORSE ET AL. (5,426,513).

The Examiner rejected claims 1-49 under 35 U.S.C. §103(a) as allegedly being unpatentable over Cordell et al. (5,778,372) in view of Scorse et al. (5,426,513).

Cordell's invention and its purpose is summarized in Cordell on col. 2, line 56 - col. 3, line 8 and col. 3, lines 27-39 as follows:

"The present invention is a browser and browsing method for a computer network such as the Internet which manages retrieval and display of electronic documents to enhance the perceived responsiveness of the browser to user action. According to a first aspect of the invention, the browser provides an enhanced perception of responsiveness when browsing an electronic document having a background image. The browser requests and receives the electronic document from a remote computer or computer network. If the electronic document specifies a background image, the browser also requests the background image from the remote computer or computer network. However, rather than deferring drawing a display of the electronic document until the background image is requested and received, the browser draws an initial display of the electronic document without the background image (e.g., with only the text contained in the already retrieved electronic document).

After the background image also is received, the browser then redraws the display of the electronic document including the background image.

:

Since the initial drawing of the document without the background image may delay a second drawing of the document with the background image, the browser according to this aspect may actually take longer to download and display the document with the background image than the prior browser. Although the total time for downloading and displaying the document with the background image may be longer, the user perceives the browser according to this aspect of the invention to be more responsive because the initial display of the document without the background image is faster than the prior browser's deferred initial display with the background image."

Claim 1

Appellants contend that claim 1 is not unpatentable over Cordell in view of Scorse, because Cordell in view of Scorse does not teach or suggest every feature of claim 1. For example, Cordell in view of Scorse does not teach or suggest the feature: "a prioritized graphics file residing in the memory, the prioritized graphics file defining higher priority image transmission portions and lower priority image transmission portions that have been selected and assigned priorities such that when the prioritized graphics file is transferred across a network, the higher priority image transmission portions of the prioritized graphics file are transmitted before the lower priority image transmission portions of the prioritized graphics file."

The Examiner alleges that Cordell discloses "an prioritized graphics file [62; "electronic document"] ..., the prioritized graphics file defining higher priority image transmission portions ["embedded image"] and lower priority image transmission portions ["background image"] that

have been selected and assigned priorities ["tagging background image"] such that when the prioritized graphics file is transferred across a network [52], the higher priority image."

However the preceding allegation by the Examiner is without persuasive weight, since the Examiner subsequently contradicts the preceding allegation by admitting that "Cordell et al does not explicitly disclose that a single prioritized graphics file, which contains higher priority image transmission portions and lower priority image transmission portions transmission portions ["embedded image"] of the prioritized graphics file are transmitted and displayed before the lower priority image transmission portions ["background image"] of the prioritized graphics file [62]."

Hence, Appellants maintain that the Examiner contradicted himself and has admitted that Cordell does not disclose a prioritized graphics file containing higher priority image transmission portions and lower priority image transmission portions.

The Examiner alleges that "Scorse et al discloses that "the portion of the visual image which the operator has determined to be the most significant is sent first". (See Fig 3D, Fig 6, col 5 line 63-col 6 line 22)".

In response, Appellants maintain that the preceding quote from Scorse does not disclose a "prioritized graphics **file** defining higher priority image transmission portions and lower priority image transmission portions" as required by claim 1. The preceding quote from Score discloses only a visual image which is not a **file**.

Additionally, claim 1 requires that the prioritized graphics file residing in the **memory**. In addition to not disclosing that the visual image is a file, Scorse does not disclose that the visual image resides in the **memory**.

Regardless of what Score discloses or does not disclose, the Examiner is required to provide a persuasive argument with respect to each and every feature of claim 1 in order to establish *prima facie* obviousness. Importantly, the Examiner cited Score only for transmitting "the portion of the visual image which the operator has determined to be the most significant is sent first" and for nothing else. The Examiner has not alleged that Score teaches or suggests a prioritized graphics **file**, which is required by claim 1. The Examiner has not alleged that Score teaches or suggests that a prioritized graphics file resides in the **memory**, which is required by claim 1. Accordingly, Appellants contend that the Examiner has not provided sufficient argumentation to establish *prima facie* obviousness with respect to claim 1.

In addition, Appellants contend that the Examiner's reason for modifying Cordell by Score is not persuasive. The Examiner argues: "It would have obvious to one having ordinary skill in the art at the time of Applicant's Invention to incorporate the teaching of Score et al into the teaching of Cordell et al, in order to improve "transmission time is kept to a minimum and the information of most importance is transmitted with priority" (See col 6 line 17-19 in Score), as such improvement [prioritized image file] is also advantageously desirable in the teaching of Cordell et al for "enhancing the perception of responsiveness" with less transmitting time. (See Abstract line 2, col 1 line 7-12, col 2 line 56-59, col 3 line 40-45 in Cordell)."

In response to the preceding argument of the Examiner, Appellants contend that Score's teaching would not be of benefit to Cordell. Cordell requires two images from a remote computing system: an electronic document image and a background image, wherein the browser in Cordell displays the electronic document image over the background image. Score does not

teach or suggest any differentiation between an electronic document image and a background image. Rather, Scorse teach differentiation between different portions of a visual image. In Scorse, the operator determines which portion of the visual image is most important portion and sends the most important portion first. There is no teaching or suggestion in Cordell that the browser should receive different portions of the electronic document at different times. Cordell is interested only in the differentiation between the electronic document image and the background image on which the background document is displayed. Scorse does not discuss the background on which the visual image is displayed and there is no teaching in Scorse that the background image is ever transmitted. In fact, the background image is never mentioned in Scorse. Thus, Appellants contend that the Examiner's reason for modifying Cordell by Scorse is not persuasive.

Additionally, Appellants contend that one of ordinary skill in the art would not consider it obvious to modify Cordell with Scorse because, generally, the receiving computer is taught by Cordell as receiving images from a remote sending computer such as a world-wide web site on the Internet. See Cordell. Col. 6, lines 17-20. One of ordinary skill in the art knows that the receiving computer will have no control of the management of the sending of images by the remote computer. A remote computer having a web server manages the transmission of web pages to accommodate requests by browsers in accordance with its own transmission prioritization algorithm which is not tailored to any single requesting computer or browser. The remote computer is attempting to optimize its throughput with respect to all requesting computers collectively and not with respect to the particularized needs of a single requesting computer or browser. Therefore, one of ordinary skill in the art would not entertain the thought

of modifying Cordell with Scorse, which requires that the remote computer organize its management of image transmission in accordance with the specialized needs of an individual receiving computer that is requesting both an electronic document image and a background image.

Based on the preceding arguments, Appellants contend that claim 1 is not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse. Accordingly, Appellants argue that the rejection of claim 1 is improper and should be reversed.

Claim 2

Since claim 2 depends from claim 1, which Appellants have argued *supra* to be patentable under 35 U.S.C. §103(a), Appellants maintain that claim 2 is not unpatentable under 35 U.S.C. §103(a).

In addition, Appellants contend that Cordell in view of Scorse does not disclose “the receiving computer comprising an image interpreter and an image viewer residing on the receiving computer, the image interpreter translating the received image transmission portions of the prioritized graphics file into image data, such that the image viewer can display the higher priority image transmission portions of the prioritized graphics file before displaying the lower priority image transmission portions of the prioritized graphics file”.

The Examiner admits: “The combination of Cordell et al and Scorse et al do not explicitly disclose that “an image interpreter””. The Examiner argues: “However, the image interpreter is inherent by “the web browser” of Cordell et al in order to display the received image file on the

display device.”

Appellants contend that the preceding argument of the Examiner is not persuasive, because the image interpreter is **not inherent** by "the web browser" of Cordell. Appellants maintain that Cordell does not disclose the prioritized graphics file of claim 2 and therefore has no need of the image interpreter of claim 2.

Accordingly, Appellants contend that claim 2 is not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

Claim 3

Since claim 3 depends from claim 1, which Appellants have argued *supra* to be patentable under 35 U.S.C. §103(a), Appellants maintain that claim 3 is not unpatentable under 35 U.S.C. §103(a).

In addition, Appellants contend that Cordell in view of Scorse does not disclose “further comprising an image prioritization editor residing in the memory, the image prioritization editor allowing at least one image transmission portion of the prioritized graphics file to be selected and assigned at least one priority”.

The Examiner argues “Regarding claim 3, refer to the discussion for the claim 1 hereinabove, Cordell et al discloses that an image prioritization editor residing in the memory, the image prioritization editor allowing at least one image transmission portion of the prioritized graphics file to be selected and assigned at least one priority. (See Fig 1, Fig 2, Fig 4, col2 line 56-col 3 line 39; Also See Fig 3D, Fig 6, col 5 line 63-col 6 line 22 in Scorse)”.

Appellants contend that the preceding argument of the Examiner is not persuasive, because Scorse discloses that the operator performs the image prioritization and the operator is not an image editor of claim 3, since the operator does not reside in the memory as required by claim 3. See Scorse, col. 4, lines 37-50: "With continued reference to FIGS. 1 and 2, by controlling the keyboard 18, the user may specify one or more portions of the visual video image to transmit, or select to transmit the entire image. The video image may be divided into conveniently sized blocks of data for ease of selection and manipulation. The operator of the system may select the resolution, compression level, and order of transmission (in the event more than one portion is desired to be sent) for each portion (i.e., a group of blocks) of the image which he desires to transmit. After the operator selects the one or more portions to be transmitted the control/processing unit 16 obtains the digital data from the storage unit 14 which correspond to the selected portions of the image."

Appellants also contend the Examiner's citation of Scorse is not evidence of what the Examiner alleges is disclosed by Cordell.

Accordingly, Appellants contend that claim 3 is not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

Claim 4

Since claim 4 depends from claim 1, which Appellants have argued *supra* to be patentable under 35 U.S.C. §103(a), Appellants maintain that claim 4 is not unpatentable under 35 U.S.C. §103(a).

In addition, Appellants contend that Cordell in view of Scorse does not disclose “further comprising an image interpreter, the image interpreter saving the prioritized graphics file in a prioritized graphics file format”.

The Examiner admits “The combination of Cordell et al and Scorse et al do not explicitly disclose that “an image interpreter”. However, the image interpreter is inherent by “the web browser” of Cordell et al in order to display the received image file on the display device. Therefore, it would have been obvious to one skilled in the art to have “image interpreter” in the teaching of Cordell et al.”.

Appellants contend that the preceding argument of the Examiner is not persuasive, because the image interpreter is **not inherent** by “the web browser” of Cordell. Appellants maintain that Cordell does not disclose a prioritized graphics file and therefore has no need of the image interpreter of claim 4.

Accordingly, Appellants contend that claim 4 is not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

Claim 5

Since claim 5 depends from claim 1, which Appellants have argued *supra* to be patentable under 35 U.S.C. §103(a), Appellants maintain that claim 5 is not unpatentable under 35 U.S.C. §103(a).

In addition, Appellants contend that Cordell in view of Scorse does not disclose “wherein the prioritized graphics file format comprises joint picture experts group format, graphics

interchange format, or bitmap format”.

The Examiner argues “Regarding claim 5, refer to the discussion for the claims 1 and 4, Cordell et al disclose that the prioritized graphics file format comprises joint picture experts group format, graphics interchange format, or bitmap format. (See Fig 1, Fig 2, Fig 4, col 2 line 56-col 3 line 39; Also See Fig 3D, Fig 6, col 5 line 63-col 6 line 22 in Scorse)”.

Appellants contend that the preceding argument of the Examiner is not persuasive, because the Examiner has not cited any portion of Cordell that discloses “the prioritized graphics file format comprises joint picture experts group format, graphics interchange format, or bitmap format”. As stated *supra* in conjunction with claim 4, Cordell does not even disclose a prioritized graphics file and Cordell most certainly does not disclose a prioritized graphics file format.

Appellants also contend the Examiner’s citation of Scorse is not evidence of what the Examiner alleges is disclosed by Cordell.

Accordingly, Appellants contend that claim 5 is not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

Claim 6

Since claim 6 depends from claim 1, which Appellants have argued *supra* to be patentable under 35 U.S.C. §103(a), Appellants maintain that claim 6 is not unpatentable under 35 U.S.C. §103(a).

In addition, Appellants contend that Cordell in view of Scorse does not disclose “wherein

the prioritized graphics file format comprises a plurality of image transmission portions of the prioritized graphics file, each image transmission portion corresponding to the at least one priority”.

The Examiner argues “Regarding claim 6, refer to the discussion for the claim 1 hereinabove, Cordell et al discloses that the prioritized graphics file format comprises a plurality of image transmission portions of the prioritized graphics file, each image transmission portion corresponding to the at least one priority. (See Fig 1, Fig 2, Fig 4, col 2 line 56-col 3 line 39; Also See Fig 3D, Fig 6, col 5 line 63-col 6 line 22 in Scorse)”.

Appellants contend that the preceding argument of the Examiner is not persuasive, because the Examiner has not cited any portion of Cordell that discloses “the prioritized graphics file format comprises a plurality of image transmission portions of the prioritized graphics file, each image transmission portion corresponding to the at least one priority”. As stated *supra* in conjunction with claim 4, Cordell does not even disclose a prioritized graphics file and Cordell most certainly does not disclose a prioritized graphics file **format**.

Appellants also contend the Examiner’s citation of Scorse is not evidence of what the Examiner alleges is disclosed by Cordell.

Accordingly, Appellants contend that claim 6 is not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

Claim 7

Since claim 7 depends from claim 1, which Appellants have argued *supra* to be patentable under 35 U.S.C. §103(a), Appellants maintain that claim 7 is not unpatentable under

35 U.S.C. §103(a).

In addition, Appellants contend that Cordell in view of Scorse does not disclose “wherein the apparatus further comprises a simulation browser residing in the memory, the simulation browser simulating transmission and reception of the prioritized graphics file, the simulation browser adding a delay between image transmission portions of the prioritized graphics file”.

The Examiner argues “Regarding claim 7, Cordell et al discloses that a simulation browser residing in the memory, the simulation browser simulating transmission and reception of the prioritized graphics file, the simulation browser adding a delay between image transmission portions of the prioritized graphics file. (See Fig 1, Fig 2, col 2 line 56-cal 3 line 38, cal 8 line 29-37)”.

Appellants contend that the preceding argument of the Examiner is not persuasive, because as stated *supra* in conjunction with claim 4, Cordell does not even disclose a prioritized graphics file and the Examiner has not cited anything in Cordell evidencing “adding a delay between image transmission portions of the prioritized graphics file”.

Accordingly, Appellants contend that claim 7 is not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

Claim 8

The Examiner alleges: “Regarding claim 8, claim 8 is similar in scope to the combination of claims 1 and 2, and thus the rejections to claims 1 and 2 hereinabove are also applicable to claim 8.”

In response, Appellants refer to Appellants' arguments presented *supra* in relation to claims 1 and 2.

Accordingly, Appellants contend that claim 8 is not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

Claims 9-13

Since claims 9-13 depend from claim 8, which Appellants have argued *supra* to be patentable under 35 U.S.C. §103(a), Appellants maintain that claims 9-13 are not unpatentable under 35 U.S.C. §103(a).

In addition, the Examiner alleges: "Regarding claims 9-13, claims 9-13 are respectively equivalent to claims 3-7, and thus the rejections to claims 3-7 hereinabove are also respectively applicable to claims 9-13, but applied in view of the rejections to base claim 8."

In response, Appellants refer to Appellants' arguments presented *supra* in relation to claims 3-7, applied in view of claim 8.

Accordingly, Appellants contend that claims 9-13 are not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

Claims 14-16

The Examiner alleges: "Regarding claims 14-16, claims 14-16 are similar in scope to claim 1, and thus the rejection to claim 1 hereinabove is also applicable to claims 14-16. In addition, Cordell et al discloses that signal bearing media bearing the image interpreter wherein the signal bearing media comprises transmission media or recordable media. (See Abstract, Fig

1, Fig 2).”

In response, Appellants refer to Appellants’ arguments presented *supra* in relation to claim 1.

Accordingly, Appellants contend that claims 14-16 are not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

Claims 17-22

Since claims 17-22 depend from claim 14, which Appellants have argued *supra* to be patentable under 35 U.S.C. §103(a), Appellants maintain that claims 17-22 are not unpatentable under 35 U.S.C. §103(a).

In addition, the Examiner alleges: “Regarding claims 17-22, claims 17-22 are respectively equivalent to claims 2-7, and thus the rejections to claims 2-7 hereinabove are also respectively applicable to claims 17-22, but applied in view of the rejections to base claim 14.”

In response, Appellants refer to Appellants’ arguments presented *supra* in relation to claims 2-7, applied in view of claim 14.

Accordingly, Appellants contend that claims 17-22 are not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

Claim 23

The Examiner alleges: “Regarding claim 23, claim 23 is the corresponding program product of claims 14 and 17. Thus, the rejections to claims 14 and 17 hereinabove are also

applicable to claim 23”.

In response, Appellants refer to Appellants’ arguments presented *supra* in relation to claims 14 and 17.

Accordingly, Appellants contend that claim 23 is not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

Claims 24-30

Since claims 24-30 depend from claim 23, which Appellants have argued *supra* to be patentable under 35 U.S.C. §103(a), Appellants maintain that claims 24-30 are not unpatentable under 35 U.S.C. §103(a).

In addition, the Examiner alleges: “Regarding claims 24-30, claims 24-30 are respectively equivalent to claims 15-22, and thus the rejections to claims 15-22 hereinabove are also respectively applicable to claims 24-30, but applied in view of the rejections to base claim 23”.

In response, Appellants refer to Appellants’ arguments presented *supra* in relation to claims 15-22, applied in view of claim 23.

Accordingly, Appellants contend that claims 24-30 are not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

Claim 31

The Examiner alleges: “Regarding claim 31, claim 31 is the corresponding method of claim 1. Thus, the rejection to claim 1 hereinabove is also applicable to claim 31”.

In response, Appellants refer to Appellants' arguments presented *supra* in relation to claim 1.

In addition, Appellants maintain that the Examiner's basis for rejecting claim 1 is not sufficient for rejecting claim 31, because claim 1 claims an apparatus whereas claim 31 claims a method.

Accordingly, Appellants contend that the Examiner has not presented any arguments directed to the following active method step of claim 31: “**selecting** at least one image transmission portion of the graphics file”.

Appellants also contend that the Examiner has not presented any arguments directed to the following active method step of claim 31: “**assigning** a priority to the selected at least one image transmission portion to create a prioritized graphics file”.

Appellants further contend that the Examiner has not presented any arguments directed to the following active method step of claim 31: “**transmitting** the prioritized graphics file across a network such that higher priority image transmission portions are transmitted before lower priority image transmission portions”.

By not presenting any arguments directed to the active method steps of step 31, the Examiner has failed to establish a *prima facie* case of obviousness in relation to claim 31.

Accordingly, Appellants contend that claim 31 is not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

Claim 32-34

Since claims 32-34 depends from claim 31, which Appellants have argued *supra* to be

patentable under 35 U.S.C. §103(a), Appellants maintain that claims 32-34 are not unpatentable under 35 U.S.C. §103(a).

In addition, the Examiner alleges: “Regarding claims 32-34, claims 32-34 are respectively equivalent to claims 4-6, and thus the rejections to claims 4-6 hereinabove are also respectively applicable to claims 32-34, but applied in view of the rejections to base claim 31”.

In response, Appellants refer to Appellants’ arguments presented *supra* in relation to claims 4-6, applied in view of claim 31.

In addition, Appellants maintain that the Examiner’s basis for rejecting claims 4-6 is not sufficient for rejecting claims 32-34, because claims 4-6 claim an apparatus whereas claims 32-34 claims a method.

Accordingly, Appellants contend that claims 32-34 are not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse, applied in view of claim 31.

Claim 35

The Examiner alleges: “Regarding claim 35-36 and 38-40, claim 35-36 and 38-40 are similar in scope to claims 8, 13 and 10-12. Thus, the rejections to claims 8, 13 and 10-12 hereinabove are also applicable to claim 35-36 and 38-40”.

In response, Appellants refer to Appellants’ arguments presented *supra* in relation to claims 8, 13 and 10-12.

In addition, Appellants maintain that the Examiner’s basis for rejecting claims 8, 13 and 10-12 is not sufficient for rejecting claim 35, because claims 8, 13 and 10-12 claim an apparatus whereas claim 35 claims a method.

Accordingly, Appellants contend that the Examiner has not presented any arguments directed to the following active method step of claim 35: “**selecting** [by the transmitting computer] at least one image transmission portion of the graphics file”.

Also, Appellants contend that the Examiner has not presented any arguments directed to the following active method step of claim 35: “**assigning** [by the transmitting computer] a priority to the selected at least one image transmission portion to create a prioritized graphics file”.

In addition, Appellants contend that the Examiner has not presented any arguments directed to the following active method step of claim 35: “**determining** [by the transmitting computer] the location of the image transmission portion of the prioritized graphics file”.

Additionally, Appellants contend that the Examiner has not presented any arguments directed to the following active method step of claim 35: “**transmitting** [by the transmitting computer] the prioritized graphics file across a network such that higher priority image transmission portions are transmitted before lower priority image transmission portions”.

Also, Appellants contend that the Examiner has not presented any arguments directed to the following active method step of claim 35: “**receiving** [by the receiving computer] a image transmission portion of the prioritized graphics file”.

Also, Appellants contend that the Examiner has not presented any arguments directed to the following active method step of claim 35: “**translating** [by the receiving computer] the image transmission portion of the prioritized graphics file into image data”.

Also, Appellants contend that the Examiner has not presented any arguments directed to the following active method step of claim 35: “**determining** [by the receiving computer] the

location of the image transmission portion of the prioritized graphics file”.

Also, Appellants contend that the Examiner has not presented any arguments directed to the following active method step of claim 35: “**transferring** [by the receiving computer] the image data and the location to an image viewer such that the image viewer can display the image transmission portion of the prioritized graphics file at the location”.

By not presenting any arguments directed to the active method steps of step 35, the Examiner has failed to establish a *prima facie* case of obviousness in relation to claim 35.

Accordingly, Appellants contend that claim 35 is not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

Claim 36

Since claim 36 depends from claim 35, which Appellants have argued *supra* to be patentable under 35 U.S.C. §103(a), Appellants maintain that claim 36 is not unpatentable under 35 U.S.C. §103(a).

In addition, the Examiner alleges: “Regarding claim 35-36 and 38-40, claim 35-36 and 38-40 are similar in scope to claims 8, 13 and 10-12. Thus, the rejections to claims 8, 13 and 10-12 hereinabove are also applicable to claim 35-36 and 38-40”.

In response, Appellants refer to Appellants’ arguments presented *supra* in relation to claims 8, 13 and 10-12.

In addition, Appellants maintain that the Examiner’s basis for rejecting claims 8, 13 and 10-12 is not sufficient for rejecting claim 36, because claims 8, 13 and 10-12 claim an apparatus whereas claim 36 claims a method.

Accordingly, Appellants contend that the Examiner has not presented any arguments directed to the following active method step of claim 36: “**simulating** transmission and reception of a image transmission portion of the prioritized graphics file”.

Also, Appellants contend that the Examiner has not presented any arguments directed to the following active method step of claim 36: “**translating** the image transmission portion of the prioritized graphics file into image data”.

In addition, Appellants contend that the Examiner has not presented any arguments directed to the following active method step of claim 36: “**determining** the location of the image transmission portion of the prioritized graphics file”.

Additionally, Appellants contend that the Examiner has not presented any arguments directed to the following active method step of claim 36: “**transferring** the image data and the location to an image viewer such that the image viewer can display the image transmission portion of the prioritized graphics file at the location”.

Also, Appellants contend that the Examiner has not presented any arguments directed to the following active method step of claim 36: “**waiting** a delay”.

Also, Appellants contend that the Examiner has not presented any arguments directed to the following active method step of claim 36: “**repeating** steps A through E until the entire prioritized graphics file has been transmitted and received”.

Appellants further note that the “repeating” step of claim 36 is specific to the method of claim 36 and is totally outside the scope of claims 8, 13 and 10-12.

By not presenting any arguments directed to the active method steps of step 36, the Examiner has failed to establish a *prima facie* case of obviousness in relation to claim 36.

Accordingly, Appellants contend that claim 35 is not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

Claims 38-40

Since claims 38-40 depend from claim 14, which Appellants have argued *supra* to be patentable under 35 U.S.C. §103(a), Appellants maintain that claims 38-40 are not unpatentable under 35 U.S.C. §103(a).

In addition, the Examiner alleges: “Regarding claim 35-36 and 38-40, claim 35-36 and 38-40 are similar in scope to claims 8, 13 and 10-12. Thus, the rejections to claims 8, 13 and 10-12 hereinabove are also applicable to claim 35-36 and 38-40”.

In response, Appellants refer to Appellants’ arguments presented *supra* in relation to claims 8, 13 and 10-12.

In addition, Appellants maintain that the Examiner’s basis for rejecting claims 8, 13 and 10-12 is not sufficient for rejecting claims 38-40, because claims 8, 13 and 10-12 claim an apparatus whereas claims 38-40 claim a method.

Accordingly, Appellants contend that claims 38-40 are not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

Claim 37

Since claim 37 depends from claim 35, which Appellants have argued *supra* to be patentable under 35 U.S.C. §103(a), Appellants maintain that claim 37 is not unpatentable under 35 U.S.C. §103(a).

In addition, Appellants contend that Cordell in view of Scorse does not disclose “wherein the step of translating the image transmission portion of the prioritized graphics file into image data further comprises the step of decompressing the image transmission portion of the prioritized graphics file”.

The Examiner admits: “Cordell et al does not explicitly disclose that "decompressing". However, decompressing is inherent in order to decompress the compressed image data for displaying. Therefore, it would have been obvious to one skilled in the art to have "decompressing" into the teaching of Cordell et al.”

Appellants contend that the preceding argument of the Examiner is not persuasive, because Cordell does not disclose “compressed image data”.

Accordingly, Appellants contend that claim 37 is not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

Claims 41-49

Since claims 41-43, 44-46, and 47-49 depend from claim 1, claim 14, and claim 31, respectively, which Appellants have argued *supra* to be patentable under 35 U.S.C. §103(a), Appellants maintain that claims 41-49 are not unpatentable under 35 U.S.C. §103(a).

In addition, the Examiner argues: “Regarding claims 41-49, claims 41-49 are similar in scope to the claim 5, and thus the rejection to claim 5 hereinabove is also applicable to claims 41-49.”

In response, Appellants refer to Appellants’ arguments presented *supra* in relation to claim 5.

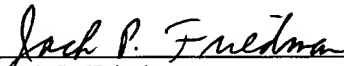
In addition, Appellants maintain that the Examiner's basis for rejecting claim 5 is not sufficient for rejecting claims 47-49, because claim 5 claims an apparatus whereas claims 47-49 claim a method.

Accordingly, Appellants contend that claims 41-49 are not unpatentable under 35 U.S.C. §103(a) over Cordell in view of Scorse.

SUMMARY

In summary, Applicants respectfully request reversal of the May 16, 2003 rejection of claims 1-49 under 35 U.S.C. §103(a).

Respectfully submitted,



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THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Beach *et al.*

Art Unit: 2672

Serial No.: 09/181,402

Dkt. No.: RO998-106

Filed: 10/28/1998

Examiner: Chung, Daniel J.

**Title: METHOD AND APPARATUS FOR PRIORITY TRANSMISSION AND DISPLAY
OF KEY AREAS OF IMAGE DATA**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPENDIX - CLAIMS ON APPEAL

1. An apparatus comprising a transmitting computer comprising:

at least one processor;

a memory coupled to the at least one processor; and

a prioritized graphics file residing in the memory, the prioritized graphics file defining higher priority image transmission portions and lower priority image transmission portions that have been selected and assigned priorities such that when the prioritized graphics file is transferred across a network, the higher priority image transmission portions of the prioritized graphics file are transmitted before the lower priority image transmission portions of the prioritized graphics file.

2. The apparatus of claim 1 further comprising a receiving computer receiving image transmission portions of the prioritized graphics file, the receiving computer comprising an image interpreter and an image viewer residing on the receiving computer, the image interpreter

translating the received image transmission portions of the prioritized graphics file into image data, such that the image viewer can display the higher priority image transmission portions of the prioritized graphics file before displaying the lower priority image transmission portions of the prioritized graphics file.

3. The apparatus of claim 1 further comprising an image prioritization editor residing in the memory, the image prioritization editor allowing at least one image transmission portion of the prioritized graphics file to be selected and assigned at least one priority.

4. The apparatus of claim 3 further comprising an image interpreter, the image interpreter saving the prioritized graphics file in a prioritized graphics file format.

5. The apparatus of claim 4 wherein the prioritized graphics file format comprises joint picture experts group format, graphics interchange format, or bitmap format.

6. The apparatus of claim 4 wherein the prioritized graphics file format comprises a plurality of image transmission portions of the prioritized graphics file, each image transmission portion corresponding to the at least one priority.

7. The apparatus of claim 1 wherein the apparatus further comprises a simulation browser residing in the memory, the simulation browser simulating transmission and reception of the prioritized graphics file, the simulation browser adding a delay between image transmission

portions of the prioritized graphics file.

8. An apparatus comprising:

a transmitting computer comprising:

- a) at least one processor;
- b) a memory coupled to the at least one processor;
- b) a prioritized graphics file residing in the memory, the prioritized graphics

file defining higher priority image transmission portions and lower priority image transmission portions that have been selected and assigned priorities such that when the prioritized graphics file is transferred across a network, the higher priority image transmission portions of the prioritized graphics file are transmitted before the lower priority image transmission portions of the prioritized graphics file; and

a receiving computer receiving the prioritized graphics file as received data from the transmitting computer, the receiving computer including:

- a) at least one processor;
- b) a memory coupled to the at least one processor;
- c) an image viewer residing in the memory;
- d) an image interpreter residing in the memory and cooperating with the

image viewer to allow the image viewer to display received images, the image viewer translating the received data into image data to allow the image viewer to display the image data corresponding to the higher priority image transmission portions of the prioritized graphics file before displaying the image data corresponding to the lower priority image transmission portions

of the prioritized graphics file.

9. The apparatus of claim 8 wherein the transmitting computer further comprises an image prioritization editor residing in the memory, the image prioritization editor allowing at least one image transmission portion of the prioritized graphics file to be selected and assigned at least one priority.

10. The apparatus of claim 9 wherein the transmitting computer further comprises an image interpreter, the image interpreter saving the prioritized graphics file in a prioritized graphics file format.

11. The apparatus of claim 10 wherein the prioritized graphics file format comprises joint picture experts group format, graphics interchange format, or bitmap format.

12. The apparatus of claim 10 wherein the prioritized graphics file format comprises a plurality of image transmission portions of the prioritized graphics file, each image transmission portion corresponding to the at least one priority.

13. The apparatus of claim 8 wherein the transmitting computer further comprises a simulation browser residing in the memory, the simulation browser simulating transmission and reception of the prioritized graphics file, the simulation browser adding a delay between image transmission portions of the prioritized graphics file.

14. A program product comprising:

an image interpreter for creating a prioritized transmission graphics file, the prioritized transmission graphics file defining higher priority image transmission portions and lower priority image transmission portions that have been selected and assigned priorities such that when the prioritized transmission graphics file is transferred across a network, the higher priority image transmission portions of the prioritized transmission graphics file are transmitted before the lower priority image transmission portions of the prioritized transmission graphics file; and
signal bearing media bearing the image interpreter.

15. The program product of claim 14 wherein the signal bearing media comprises transmission media.

16. The program product of claim 14 wherein the signal bearing media comprises recordable media.

17. The program product of claim 14 wherein the image interpreter can translate received image reception portions of a prioritized reception graphics file into image data such that an image viewer can display the higher priority image reception portions of the prioritized reception graphics file before displaying the lower priority image reception portions of the prioritized reception graphics file.

18. The program product of claim 14 further comprising an image prioritization editor, the image prioritization editor allowing at least one image transmission portion of the prioritized transmission graphics file to be selected and assigned at least one priority.

19. The program product of claim 18 wherein the image interpreter can save the prioritized transmission graphics file in a prioritized transmission graphics file format.

20. The program product of claim 19 wherein the prioritized transmission graphics file format comprises joint picture experts group format, graphics interchange format, or bitmap format.

21. The program product of claim 19 wherein the prioritized transmission graphics file format comprises a plurality of image transmission portions of the prioritized transmission graphics file, each image transmission portion corresponding to the at least one priority.

22. The program product of claim 14 wherein the program product further comprises a simulation browser for simulating transmission and reception of the prioritized transmission graphics file, the simulation browser adding a delay between image transmission portions of the prioritized transmission graphics file.

23. A program product comprising:

an image interpreter for creating a prioritized transmission graphics file, the prioritized transmission graphics file defining higher priority image transmission portions and lower priority

image transmission portions that have been selected and assigned priorities such that when the prioritized transmission graphics file is transferred across a network, the higher priority image transmission portions of the prioritized transmission graphics file are transmitted before the lower priority image transmission portions of the prioritized transmission graphics file, the image interpreter also for translating received image reception portions of a prioritized reception graphics file into image data such that an image viewer can display the higher priority image reception portions of the prioritized reception graphics file before displaying the lower priority image reception portions of the prioritized reception graphics file; and
signal bearing media bearing the image interpreter.

24. The program product of claim 23 wherein the signal bearing media comprises transmission media.

25. The program product of claim 23 wherein the signal bearing media comprises recordable media.

26. The program product of claim 23 further comprising an image prioritization editor for allowing at least one image transmission portion of the prioritized transmission graphics file to be selected and assigned at least one priority.

27. The program product of claim 26 wherein image interpreter can save the prioritized transmission graphics file in a prioritized transmission graphics file format.

28. The program product of claim 27 wherein the prioritized transmission graphics file format comprises joint picture experts group format, graphics interchange format, or bitmap format.

29. The program product of claim 27 wherein the prioritized transmission graphics file format comprises a plurality of image transmission portions of the prioritized transmission graphics file, each image transmission portion corresponding to the at least one priority.

30. The program product of claim 23 further comprising a simulation browser for simulating transmission and reception of the prioritized transmission graphics file, the simulation browser adding a delay between image transmission portions of the prioritized transmission graphics file.

31. A method for transmitting a graphics file from a transmitting computer, the method comprising the steps of:

- a) selecting at least one image transmission portion of the graphics file;
- b) assigning a priority to the selected at least one image transmission portion to create a prioritized graphics file; and
- c) transmitting the prioritized graphics file across a network such that higher priority image transmission portions are transmitted before lower priority image transmission portions.

32. The method of claim 31 further comprising the step of saving the prioritized graphics file in a prioritized graphics file format.

33. The method of claim 32 wherein the prioritized graphics file format comprises joint picture experts group format, graphics interchange format, or bitmap format.

34. The method of claim 32 wherein the prioritized graphics file format comprises a plurality of image transmission portions of the prioritized graphics file, each image transmission portion corresponding to the at least one priority.

35. A method for transmitting a graphics file from a transmitting computer and receiving the graphics file on a receiving computer, the method comprising the steps of:

- a) performing the following steps on the transmitting computer:
 - i) selecting at least one image transmission portion of the graphics file;
 - ii) assigning a priority to the selected at least one image transmission portion to create a prioritized graphics file; and
 - iii) transmitting the prioritized graphics file across a network such that higher priority image transmission portions are transmitted before lower priority image transmission portions;
- b) performing the following steps on the receiving computer:
 - i) receiving a image transmission portion of the prioritized graphics file;
 - ii) translating the image transmission portion of the prioritized graphics file into image data;
 - iii) determining the location of the image transmission portion of the prioritized graphics file; and

- iv) transferring the image data and the location to an image viewer such that the image viewer can display the image transmission portion of the prioritized graphics file at the location.

36. The method of claim 35 wherein the step of transmitting the prioritized graphics file across a network such that higher priority image transmission portions are transmitted before lower priority image transmission portions further comprises the following steps:

- A) simulating transmission and reception of a image transmission portion of the prioritized graphics file;
- B) translating the image transmission portion of the prioritized graphics file into image data;
- C) determining the location of the image transmission portion of the prioritized graphics file;
- D) transferring the image data and the location to an image viewer such that the image viewer can display the image transmission portion of the prioritized graphics file at the location
- E) waiting a delay; and
- F) repeating steps A through E until the entire prioritized graphics file has been transmitted and received.
- G)

37. The method of claim 35 wherein the step of translating the image transmission portion of the prioritized graphics file into image data further comprises the step of decompressing the image

transmission portion of the prioritized graphics file.

38. The method of claim 35 further comprising the following step that is performed on the transmitting computer:

iv) saving the prioritized graphics file in a prioritized graphics file format.

39. The method of claim 38 wherein the prioritized graphics file format comprises joint picture experts group format, graphics interchange format, or bitmap format.

40. The method of claim 38 wherein the prioritized graphics file format comprises a plurality of image transmission portions of the prioritized graphics file, each image transmission portion corresponding to the at least one priority.

41. The apparatus of claim 1 wherein the prioritized graphics file comprises a joint picture experts group file.

42. The apparatus of claim 1 wherein the prioritized graphics file comprises a graphics interchange format file.

43. The apparatus of claim 1 wherein the prioritized graphics file comprises a bitmap file.

44. The program product of claim 14 wherein the prioritized graphics file comprises a joint

picture experts group file.

45. The program product of claim 14 wherein the prioritized graphics file comprises a graphics interchange format file.

46. The program product of claim 14 wherein the prioritized graphics file comprises a bitmap file.

47. The method of claim 31 wherein the prioritized graphics file comprises a joint picture experts group file.

48. The method of claim 31 wherein the prioritized graphics file comprises a graphics interchange format file.

49. The method of claim 31 wherein the prioritized graphics file comprises a bitmap file.